

## 2007 DRAFTING REQUEST

### Bill

Received: **02/09/2007**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Karl Van Roy (608) 266-0616**

By/Representing: **Tanya Hein**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Insurance - auto  
Transportation - mot veh dealers**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.VanRoy@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Insurance coverage of auto body repairs

---

### Instructions:

See Attached

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 02/09/2007 agary 02/16/2007 bbalinsk 02/23/2007 csundber 02/23/2007	kfollett 03/06/2007		_____			
/1			nmatzke	_____	lparisi		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			03/07/2007		03/07/2007		
/2	pkahler	kfollett	pgreensl		mbarman	mbarman	
	03/08/2007	04/12/2007	04/12/2007		04/13/2007	05/08/2007	
	pkahler	kfollett	pgreensl				
	04/11/2007	04/12/2007	04/13/2007				
	pkahler						
	04/12/2007						

FE Sent For: *NONE*

<END>

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	csundber 02/23/2007			_____			
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			03/07/2007 _____		03/07/2007		
/2	pkahler 03/08/2007	kfollett 04/12/2007	pgreensl 04/12/2007 _____		mbarman 04/13/2007		
	pkahler 04/11/2007	kfollett 04/12/2007	pgreensl 04/13/2007 _____				
	pkahler 04/12/2007		_____				
			_____				

FE Sent For:

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/?	pkahler 02/09/2007 agary 02/16/2007 bbalinsk 02/23/2007 csundber 02/23/2007	kfollett 03/06/2007 12/jf 4/12/12 pg					
/1			nmatzke 4/13/08		lparisi 4/13/08		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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03/07/2007	_____	03/07/2007
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FE Sent For:

**<END>**

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Wanted: As time permits

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This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters:

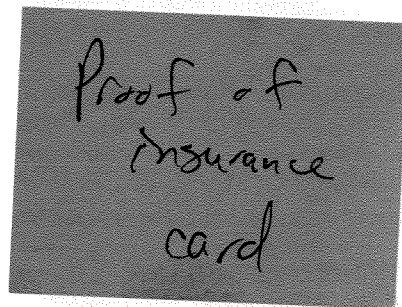
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/?	pkahler	1/11/07 3/6	nwn 3/7	nwnfs 3/7			

FE Sent For:

<END>



# KARL VAN ROY

STATE REPRESENTATIVE

To: Pamela Kahler  
From: Rep. Van Roy Bill  
Re: Draft Auto Body Repairs

Attached is a marked-up copy of LRB 5096/1 from last session. Please make the changes where shown highlighted in pink.

Also, please make the additions shown below in a way that meets our legislative intent using the correct statutory language.

If you have questions, please contact my staff, Tanya Hein, at 608-266-0617.  
Thank you.

-----  
All motor vehicle insurance cards upon first renewal, following the passage of this bill must state all pertinent vehicle and insured's information on the insurance card along with the following:  
Under Wisconsin Law, an insurance company cannot require that motor vehicle repairs be made by a particular repair facility; the consumer has the right to choose the repairer.

All motor vehicle repair estimates, whether done by a repair shop or by an insurance claim center, must state the following on the repair estimate: Under Wisconsin Law, an insurance company cannot require that motor vehicle repairs be made by a particular repair facility; the consumer has the right to choose the repairer.

All auto body repair facilities and drive-in claim centers must display a sign in a conspicuous location that states the following in boldfaced type letters at least two inches high: Under Wisconsin Law, an insurance company cannot require that motor vehicle repairs be made by a particular repair facility; the consumer has the right to choose the repairer.



5/2

## 2005 - 2006 LEGISLATURE

LRB-5096/1

PJK:kjf:sh

## 2005 BILL

- 1 AN ACT *to renumber and amend* 632.37; *to amend* 632.37 (title); and *to create*  
2 632.37 (1) and 632.37 (3), (4) and (5) of the statutes; **relating to:** prohibiting  
3 an insurer from requiring a certain vendor for repairing a motor vehicle.

---

***Analysis by the Legislative Reference Bureau***

Current law prohibits an insurer that issues a motor vehicle insurance policy that covers the repair or replacement of motor vehicle glass from conditioning the coverage on whether the insured or a third party making a claim under the policy obtains services or parts from a particular vendor specified by the insurer. This bill expands that prohibition.

Under the bill, an insurer that issues a motor vehicle insurance policy that covers the repair of a motor vehicle may not condition that coverage on whether the insured or a third party making a claim under the policy obtains services or parts, including new, used, or nonoriginal, from a particular garage, repair shop, or other vendor specified by the insurer. In addition, if an insured or third party makes a claim for the repair of a motor vehicle, the insurer must inform the insured or third party, orally ~~or in writing~~, that they may select any garage, repair shop, or other vendor for the repair and that the insurer will cover the reasonable costs of the repair regardless of which garage, repair shop, or other vendor they select. The insurer also must inquire, orally ~~or in writing~~, whether the insured or third party has selected

at the time the  
claim is reported

replace wherever you see  
"or in writing"

2005 - 2006 Legislature

- 2 -

LRB-5096/1

PJK:kjf:sh

## BILL

a garage, repair shop, or other vendor for the repair and may make a referral to a garage, repair shop, or other vendor if the insured or third party requests a referral.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1 SECTION 1. 632.37 (title) of the statutes is amended to read:

2 632.37 (title) Motor vehicle glass repair practices; restriction on  
3 specifying vendor.

4 SECTION 2. 632.37 of the statutes is renumbered 632.37 (2) and amended to  
5 read:

6 632.37 (2) PROHIBITED ACTION. An insurer that issues a motor vehicle insurance  
7 policy covering the repair of a motor vehicle, including the repair or replacement of  
8 motor vehicle glass or other parts, may not require, as a condition of that coverage,  
9 that an insured, or a 3rd party, making a claim under the policy for the repair or  
10 replacement of the motor vehicle glass obtain services or parts, including new or used  
11 parts or non-original manufacturer parts, from a particular garage,  
12 repair shop, or other vendor, or in a particular location, specified by the insurer.

remove

13 SECTION 3. 632.37 (1) of the statutes is created to read:

14 632.37 (1) DEFINITION. In this section, "nonoriginal manufacturer part" means  
15 a motor vehicle part that is not made by or for the manufacturer of the insured's  
16 motor vehicle.

17 SECTION 4. 632.37 (3), (4) and (5) of the statutes are created to read:

18 632.37 (3) REQUIRED INFORMATION. If an insured or a 3rd party makes a claim  
19 specified in sub. (2) that is covered under a policy specified in sub. (2), the insurer  
20 shall, ~~after~~ the claim is submitted to the insurer, do all of the following: in order:

add

when

change

2005 - 2006 Legislature

- 3 -

## BILL

LRB-5096/1  
PJK:kjf:sh  
SECTION 4

1 (a) Inform the insured or 3rd party, orally ~~or in writing~~, that he or she may  
2 select any garage, repair shop, or other vendor for the repair of the motor vehicle.

3 (b) Inform the insured or 3rd party, orally ~~or in writing~~, that the insurer will  
4 pay the reasonable costs of the repair regardless of which garage, repair shop, or  
5 other vendor the insured or 3rd party selects to make the repair.

6 (c) Inquire, orally ~~or in writing~~, whether the insured or 3rd party has selected  
7 a garage, repair shop, or other vendor for the repair of the motor vehicle.

8 (4) RESTRICTION ON REFERRALS. Except as provided in sub. (5), if the insured or  
9 3rd party indicates that he or she has selected a garage, repair shop, or other vendor  
10 for the repair of the motor vehicle, the insurer may not attempt, or shall cease  
11 attempts, to influence the insured's or 3rd party's choice of garage, repair shop, or  
12 other vendor.

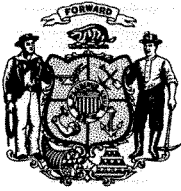
13 (5) PERMITTED REFERRALS. An insurer may refer an insured or 3rd party making  
14 a claim under sub. (3) to a particular garage, repair shop, or other vendor, or to a  
15 particular location, if, after the insurer satisfies the requirements under sub. (3), the  
16 insured or 3rd party requests a referral from the insurer.

## SECTION 5. Initial applicability.

17 (1) If a motor vehicle insurance policy that is in effect on the effective date of  
18 this subsection contains a provision that is inconsistent with this act, this act first  
19 applies to that motor vehicle insurance policy on the date on which it is renewed.  
20  
21

(END)

insert:  
The insured or 3rd party has indicated that he or she has not selected a garage, repair shop, or other vendor.  
or



lu: 2/23/07 wanted by Monday 3/12  
State of Wisconsin  
~~2005-2006~~ LEGISLATURE  
2007-2008

1902/1  
LRB-5096/T  
PJK:kjf:sh

2007  
~~2005~~ BILL

CTS:kjf

PWF

regenerate ↓

- 1 **AN ACT to renumber and amend 632.37; to amend 632.37 (title); and to create**  
2 **632.37 (1) and 632.37 (3), (4) and (5) of the statutes; relating to: prohibiting**  
3 **an insurer from requiring a certain vendor for repairing a motor vehicle.**

---

***Analysis by the Legislative Reference Bureau***

Current law prohibits an insurer that issues a motor vehicle insurance policy that covers the repair or replacement of motor vehicle glass from conditioning the coverage on whether the insured or a third party making a claim under the policy obtains services or parts from a particular vendor specified by the insurer. This bill expands that prohibition.

Under the bill, an insurer that issues a motor vehicle insurance policy that covers the repair of a motor vehicle may not condition that coverage on whether the insured or a third party making a claim under the policy obtains services or parts, including new, used, or nonoriginal, from a particular garage, repair shop, or other vendor specified by the insurer. In addition, if an insured or third party makes a claim for the repair of a motor vehicle, the insurer must inform the insured or third party, orally or in writing, that they may select any garage, repair shop, or other vendor for the repair and that the insurer will cover the reasonable costs of the repair regardless of which garage, repair shop, or other vendor they select. The insurer also must inquire, orally or in writing, whether the insured or third party has selected

## BILL

a garage, repair shop, or other vendor for the repair and may make a referral to a garage, repair shop, or other vendor if the insured or third party requests a referral.

INS ACS

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

INS 2-1 CS

SECTION 1. 632.37 (title) of the statutes is amended to read:

632.37 (title) **Motor vehicle glass repair practices; restriction on specifying vendor.**

SECTION 2. 632.37 of the statutes is renumbered 632.37 (2) and amended to read:

632.37 (2) PROHIBITED ACTION. An insurer that issues a motor vehicle insurance policy covering the repair of a motor vehicle, including the repair or replacement of motor vehicle glass or other parts, may not require, as a condition of that coverage, that an insured, or a 3rd party, making a claim under the policy for the repair or replacement of the motor vehicle glass obtain services or parts, including new or used parts or new or used nonoriginal manufacturer parts, from a particular garage, repair shop, or other vendor, or in a particular location, specified by the insurer.

SECTION 3. 632.37 (1) of the statutes is created to read:

632.37 (1) DEFINITION. In this section, "nonoriginal manufacturer part" means a motor vehicle part that is not made by or for the manufacturer of the insured's motor vehicle.

SECTION 4. 632.37 (3), (4) and (5) of the statutes are created to read:

632.37 (3) REQUIRED INFORMATION. If an insured or a 3rd party makes a claim specified in sub. (2) that is covered under a policy specified in sub. (2), the insurer shall, ~~after~~ the claim is submitted to the insurer, do all of the following:

at the time

in the following order

indicates that he or she has not selected a repair shop or

**BILL**

1 (a) ~~Inform~~ <sup>Orally</sup> the insured or 3rd party, orally or in writing, that he or she may  
2 select any garage, repair shop, or other vendor for the repair of the motor vehicle.

3 (b) ~~Inform~~ <sup>Orally</sup> the insured or 3rd party, orally or in writing, that the insurer will  
4 pay the reasonable costs of the repair regardless of which garage, repair shop, or  
5 other vendor the insured or 3rd party selects to make the repair.

6 (c) ~~Inquire~~ <sup>Orally</sup>, orally or in writing, whether the insured or 3rd party has selected  
7 a garage, repair shop, or other vendor for the repair of the motor vehicle.

8 (4) RESTRICTION ON REFERRALS. Except as provided in sub. (5), if the insured or  
9 3rd party indicates that he or she has selected a garage, repair shop, or other vendor  
10 for the repair of the motor vehicle, the insurer may not attempt, or shall cease  
11 attempts, to influence the insured's or 3rd party's choice of garage, repair shop, or  
12 other vendor.

13 (5) PERMITTED REFERRALS. An insurer may refer an insured or 3rd party making  
14 a claim under sub. (3) to a particular garage, repair shop, or other vendor, or to a  
15 particular location, if, after the insurer satisfies the requirements under sub. (3), the  
16 insured or 3rd party requests a referral from the insurer.

17 **SECTION 5. Initial applicability.**

18 (1) If a motor vehicle insurance policy that is in effect on the effective date of  
19 this subsection contains a provision that is inconsistent with this act, this act first  
20 applies to that motor vehicle insurance policy on the date on which it is renewed.

21 (END)

Insert 3-16

Insert 3-15

**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1902/ins

DR.....

**INSERT A-1**

*note*  
The bill also requires that every motor vehicle insurance identification card issued after the effective date of the bill contain a notice that insurance companies are prohibited from requiring that repairs be made by a particular repair facility.

(END OF INSERT A-1)

**INSERT 3-15**

*note*  
1 any of the following occurs:

2 (a) The insured or 3rd party indicates that he or she has not selected a garage,  
3 repair shop, or other vendor for the repair.

4 (b)

(END OF INSERT 3-15)

**INSERT 3-16**

5 (6) NOTICE ON INSURANCE CARD. An insurer that issues a policy specified in sub.  
6 (2) shall include on every motor vehicle insurance identification card issued on or  
7 after the effective date of this subsection .... [revisor inserts date], substantially the  
8 following information on its face: "Wisconsin law prohibits an insurance company  
9 from requiring that motor vehicle repairs be made by a particular repair facility; the  
10 consumer has the right to choose the repair facility."

(END OF INSERT 3-16)

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1902/1insCS  
CTS:.....

notice that insurance companies are prohibited from requiring  
that repairs be made by a particular repair facility.

1 **Insert A CS:**

NO ~~Also under the bill, an auto body repair facility or automobile insurance claim  
facility must post in a conspicuous location a sign stating that an insurance company  
may not require that motor vehicle repairs be made at a particular repair facility.~~

2 **Insert 1-ICS:**

3 **SECTION 1.** 134.82 of the statutes is created to read:

4 **134.82 Notice of right to choose repairer.** (1) An auto body repair facility  
5 or automobile insurance claim facility shall post in a conspicuous location a sign that  
6 states, in boldface letters not less than <sup>2</sup>two inches high, "Under Wisconsin law, an  
7 insurance company cannot require that motor vehicle repairs be made at a particular  
8 repair facility; the consumer has the right to choose the repairer."

"Wisconsin law prohibits an  
insurance company from requiring  
that motor vehicle repairs be made  
by a particular repair facility;  
the consumer has the right to  
choose the repair facility."



## Kahler, Pam

---

**From:** Hein, Tanya  
**Sent:** Tuesday, April 10, 2007 2:51 PM  
**To:** Sundberg, Christopher; Kahler, Pam  
**Subject:** LRB 1902 request for revisions

**Importance:** High

**Attachments:** Rep. Van Roy - LRB 1902 revisions - Auto body bill - 4.10.07.doc

Pam and Chris,

Attached is a document with revisions we would like made to LRB 1902. We need the revision no later than the end of this week, but sometime by the end of the day on April 12 or the morning of April 13 would be preferable. Thank you so much! Please let me know if you have any questions.



Rep. Van Roy -  
LRB 1902 revis...

**Tanya R. Hein**  
Legislative Aide

~~~~~  
State Representative Karl Van Roy  
123 West, State Capitol  
P.O. Box 8953  
Madison, WI 53708  
Tel: 608-266-0616  
Fax: 608-282-3690

**Date: April 10, 2007**  
**To: Pam Kahler & Chris Sundberg**  
**From: Rep. Karl Van Roy**  
**RE: Request for revisions to LRB 1902/1**

Please make the following changes to LRB 1902/1:

- ✓ **Delete:** Page two, lines 16 and 17 - "including new or used parts or nonoriginal manufacturer parts."
- ✓ **Add:** Page 2 line 16 add after "obtain" - " a damage repair estimate"
- ✓ **Delete:** Page 3 lines 1 - 3 in their entirety.
- ✓ **Replace:** Page 3 line 9 after "vendor" with - " to prepare a damage repair estimate or to repair the motor vehicle."
- ✓ **Replace** Page 3 line 14 after "vendor" with - " to prepare a damage repair estimate or to repair the motor vehicle."
- ✓ **Delete** page 3 line 17 "for the repair of" and **Replace** with " to prepare a damage repair estimate or to repair the motor vehicle"
- ✓ **Insert:** page 3 line 25 after "other vendor for the" insert "estimate or the"

**ADD:**

Insurer shall pay the reasonable and necessary repair costs to repair the vehicle and shall not limit or discount the amount based on charges that would have been incurred had the vehicle been repaired by the insurer's chosen repair shop.

Definition of "reasonable and necessary": "the rate the general public commonly pays for similar repairs on similar vehicles in the same geographic area."

**INTENT:**

We don't want this to interfere with insurance companies contracting with repair shops for agreed upon below-market rates in their direct repair plans (DRP). However, if an insured decides to go to an auto body shop that is not part of a DRP and the going rate is \$100 for a new bumper, the estimate is for \$90, and the contracted rate with a DRP is \$60, the insurance company should pay \$90. Similarly, if the estimate is for \$110, the insurance company should only have to pay the going rate of \$100.

**Page 4 – after line 1: ADD:**

D - note  
Insurer referrals shall be given without acts to influence a consumer's decision. Acts to influence include but are not limited to:

- D-note →
- 1) reducing the amount of the premium or deductible or offering additional warranties if a preferred repair shop performs the repairs or
  - 2) suggesting that repairs made at a non-preferred repair shop will cost more, be delayed, or not be guaranteed.

**Page 4 --- after Line 6: ADD:**

NOTICE ON DAMAGE REPAIR ESTIMATE: All repair estimates, whether done at a repair shop or automobile insurance claim facility, shall include the following notice on the heading of the estimate, printed in not less than 10 point boldface type: "Wisconsin law prohibits an insurance company from requiring that motor vehicle repairs be made by a particular repair facility; the consumer has the right to choose the repair facility."

**ADD:**

Insurance adjusters are prohibited from preparing or altering a previously prepared damage repair estimate without first making a physical inspection of the damage to the vehicle. After such inspection is made, negotiations, if needed shall proceed in a reasonable manner.

Def in 601.02(1)

used in 601.64(5)  
618.50(1)

## Kahler, Pam

---

**From:** Hein, Tanya  
**Sent:** Wednesday, April 11, 2007 3:47 PM  
**To:** Sundberg, Christopher; Kahler, Pam  
**Subject:** FW: LRB 1902 request for revisions

**Importance:** High

**Attachments:** Rep. Van Roy - LRB 1902 revisions - Auto body bill - 4.10.07.doc

Pam and Chris,

Please delete the last line on the second page of the memo I sent to you. We find it unnecessary to put into our bill draft. Sorry for the change. Hopefully, it will be the last one!!

That line says: **After such inspection is made, negotiations, if needed shall proceed in a reasonable manner.**

**Thanks!**

*Tanya R. Hein*  
Legislative Aide  
Rep. Karl Van Roy

---

**From:** Hein, Tanya  
**Sent:** Tuesday, April 10, 2007 2:51 PM  
**To:** Sundberg, Christopher; Kahler, Pam  
**Subject:** LRB 1902 request for revisions  
**Importance:** High

Pam and Chris,

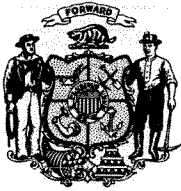
Attached is a document with revisions we would like made to LRB 1902. We need the revision no later than the end of this week, but sometime by the end of the day on April 12 or the morning of April 13 would be preferable. Thank you so much! Please let me know if you have any questions.



Rep. Van Roy -  
LRB 1902 revis...

*Tanya R. Hein*  
Legislative Aide

~~~~~  
State Representative Karl Van Roy  
123 West, State Capitol  
P.O. Box 8953  
Madison, WI 53708  
Tel: 608-266-0616  
Fax: 608-282-3690



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1902/1  
PJK&CTS:kjf,awn

2  
kif  
r m is run

2007 BILL

D-vote  
wanted Friday a.m.

1 **AN ACT** *regenerate* **to renumber and amend** 632.37; **to amend** 632.37 (title); and **to create**  
2 134.82, 632.37 (1) and 632.37 (3), (4), (5) and (6) of the statutes; **relating to:**  
3 prohibiting an insurer from requiring a certain vendor for repairing a motor  
4 vehicle.

**Analysis by the Legislative Reference Bureau**

Current law prohibits an insurer that issues a motor vehicle insurance policy that covers the repair or replacement of motor vehicle glass from conditioning the coverage on whether the insured or a third party making a claim under the policy obtains services or parts from a particular vendor specified by the insurer. This bill expands that prohibition.

Under the bill, an insurer that issues a motor vehicle insurance policy that covers the repair of a motor vehicle may not condition that coverage on whether the insured or a third party making a claim under the policy obtains services or parts, including new, used, or nonoriginal, from a particular garage, repair shop, or other vendor specified by the insurer. In addition, if an insured or third party makes a claim for the repair of a motor vehicle, the insurer must inform the insured or third party that they may select any garage, repair shop, or other vendor for the repair and that the insurer will cover the reasonable costs of the repair regardless of which garage, repair shop, or other vendor they select. The insurer also must inquire whether the insured or third party has selected a garage, repair shop, or other vendor for the repair and may make a referral to a garage, repair shop, or other vendor if the insured or third party indicates that he or she has not selected a repair shop or

a damage repair estimate or

a damage repair estimate or

## BILL

requests a referral. The bill also requires that every motor vehicle proof of insurance card issued after the effective date of the bill contain a notice that insurance companies are prohibited from requiring that repairs be made by a particular repair facility. Also under the bill, an auto body repair facility or automobile insurance claim facility must post in a conspicuous location a notice that insurance companies are prohibited from requiring that repairs be made by a particular repair facility.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 134.82 of the statutes is created to read:

**134.82 Notice of right to choose repairer.** (1) An auto body repair facility or automobile insurance claim facility shall post in a conspicuous location a sign that states, in boldface letters not less than 2 inches high: "Wisconsin law prohibits an insurance company from requiring that motor vehicle repairs be made by a particular repair facility; the consumer has the right to choose the repair facility."

SECTION 2. 632.37 (title) of the statutes is amended to read:

**632.37 (title) Motor vehicle glass repair practices; ~~restriction on specifying vendor.~~**

SECTION 3. 632.37 of the statutes is renumbered 632.37 (2) and amended to read:

**632.37 (2) PROHIBITED ACTION.** An insurer that issues a motor vehicle insurance policy covering the repair of a motor vehicle, including the repair or replacement of motor vehicle glass or other parts, may not require, as a condition of that coverage, that an insured, or a 3rd party, making a claim under the policy for the repair or replacement of the motor vehicle glass obtain services or parts, including new or used parts or nonoriginal manufacturer parts, from a particular garage, repair shop, or other vendor, or in a particular location, specified by the insurer.

SECTION 4. 632.37 (1) of the statutes is created to read:

## BILL

*Insert 3-4*

632.37 (1) DEFINITION. In this section, "nonoriginal manufacturer part" means a motor vehicle part that is not made by or for the manufacturer of the insured's motor vehicle.

SECTION 5. 632.37 (3), (4), (5) and (6) of the statutes are created to read:

632.37 (3) <sup>(b)</sup> REQUIRED INFORMATION. If an insured or a 3rd party makes a claim specified in <sup>par. (a)</sup> sub. (2) that is covered under a policy specified in <sup>par. (a)</sup> sub. (2), the insurer shall, at the time the claim is submitted, do all of the following in the following order:

1. <sup>(a)</sup> Orally inform the insured or 3rd party that he or she may select any garage, repair shop, or other vendor <sup>Insert 3-9</sup> for the repair of the motor vehicle.

2. <sup>(b)</sup> Orally inform the insured or 3rd party that the insurer will pay the reasonable costs of the repair regardless of which garage, repair shop, or other vendor the insured or 3rd party selects to make the repair.

3. <sup>(c)</sup> Orally inquire whether the insured or 3rd party has selected a garage, repair shop, or other vendor <sup>Insert 3-9</sup> for the repair of the motor vehicle.

~~(4) RESTRICTION ON REFERRALS.~~ Except as provided in <sup>(d)</sup> sub. (5), if the insured or 3rd party indicates that he or she has selected a garage, repair shop, or other vendor <sup>Insert 3-9</sup> for the repair of the motor vehicle, the insurer may not attempt, or shall cease attempts, to influence the insured's or 3rd party's choice of garage, repair shop, or other vendor.

<sup>(d)</sup> (5) PERMITTED REFERRALS. An insurer may refer an insured or 3rd party making a claim under <sup>par. (b)</sup> sub. (3) to a particular garage, repair shop, or other vendor, or to a particular location, if, after the insurer satisfies the requirements under <sup>par. (b)</sup> sub. (3), any of the following occurs:

1. <sup>(a)</sup> The insured or 3rd party indicates that he or she has not selected a garage, repair shop, or other vendor for <sup>the estimate or the</sup> the repair.

## BILL

Insert 4-1  
1 (b) The insured or 3rd party requests a referral from the insurer.

2 (6) NOTICE ON INSURANCE CARD. An insurer that issues a policy specified in sub-  
3 (2) shall include on every motor vehicle proof of insurance card issued on or after the  
4 effective date of this subsection.... [revisor inserts date], substantially the following  
5 information on its face: "Wisconsin law prohibits an insurance company from  
6 requiring that motor vehicle repairs be made by a particular repair facility; the  
7 consumer has the right to choose the repair facility."

Insert 4-7  
8 **SECTION 6. Initial applicability.**

9 (1) If a motor vehicle insurance policy that is in effect on the effective date of  
10 this subsection contains a provision that is inconsistent with this act, this act first  
11 applies to that motor vehicle insurance policy on the date on which it is renewed.

12 (END)

D-note



**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1902/2ins  
PJK&CTS:kjf:nnw

**INSERT A-1**

not  
The bill provides that an insurer that pays for the repair of a motor vehicle must pay for the repair at the same rate that the general public pays in that geographic area, unless the insurer and repair facility have an agreement otherwise, and that the insurer may not limit or discount the amount paid on the basis that the repair would have cost less if it had been made at a repair facility specified by the insurer. The bill also prohibits an insurance adjuster from preparing a vehicle damage estimate or from altering one prepared by another party without first physically inspecting the damage to the vehicle.

(END OF INSERT A-1)

**INSERT A-2**

not  
In addition, an auto body repair facility or an automobile insurance claim facility must include that same notice at the top of every motor vehicle repair estimate that it prepares.

(END OF INSERT A-2)

**INSERT 2-6**

1 4 (2) Every motor vehicle damage repair estimate prepared by an auto body  
2 repair facility or automobile insurance claim facility shall include at the top of the  
3 estimate, printed in not less than 10-point boldface type, the following notice:  
4 "Wisconsin law prohibits an insurance company from requiring that motor vehicle  
5 repairs be made by a particular repair facility; the consumer has the right to choose  
6 the repair facility."

(END OF INSERT 2-6)

**INSERT 2-16**

7 not a damage repair estimate or

(END OF INSERT 2-16)

**INSERT 3-4**



*Ins 3-4*

1 *4* **SECTION 1.** 632.37 (1) (b), (c), (d), (e) and (f) of the statutes are created to read:

(END OF INSERT 3-4)

INSERT 3-9 *← use 3 times*

2 *not* to prepare a damage repair estimate or to repair

(END OF INSERT 3-9)

INSERT 4-1

3 *4* (e) An insurer that makes a referral under par. (d) may not engage in any  
4 actions intended to influence the insured's or 3rd party's decision, such as by  
5 agreeing to reduce the amount of the premium or deductible or offering additional  
6 warranties if the insured or 3rd party selects a particular garage, repair shop, or  
7 other vendor, or by suggesting that if repairs are made at a particular garage, repair  
8 shop, or other vendor the repairs will cost more, be delayed, or not be guaranteed.

(END OF INSERT 4-1)

INSERT 4-7

9 *4* **SECTION 2.** 632.37 (2) and (3) of the statutes are created to read:

10 *4* 632.37 (2) REQUIREMENT TO MAKE PHYSICAL INSPECTION. An adjuster, as defined  
11 in s. 601.02 (1), may not prepare a motor vehicle damage repair estimate, or alter an  
12 estimate that was prepared by another party, without first making a physical  
13 inspection of the damage to the vehicle.

14 *4* (3) PAYMENT OF REPAIR COSTS. Except as otherwise agreed between the insurer  
15 and the garage, repair shop, or other vendor making the repair, an insurer that pays  
16 for the repair of a motor vehicle shall pay for the repair at the same rate the general  
17 public pays in the geographic area in which the repair is made for the same or a

1 similar type of repair to the same or a similar type of motor vehicle. The insurer may  
2 not limit or discount the amount that the insurer pays for the repair on the basis that  
3 the repair would have cost less if it had been made at a particular garage, repair shop,  
4 or other vendor, or in a particular location, specified by the insurer.

(END OF INSERT 4-7)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1902/2dn  
PJK&CPS:kjf:town



*Date*

Regarding the suggested language for s. 632.37 (1) (e), I'm not sure what is being referred to by "offering additional warranties." Do insurers offer warranties? What do insurers warrant?

*Simply* ← Also regarding that suggested language, it seems to me that making a referral itself is influencing the consumer's decision. If the insurer makes a referral to only one vendor, wouldn't that be influencing a consumer's decision? Did you intend that the insurer should provide information about the garages, repair shops, and other vendors that are available and not actually make a referral?

"Reasonable and necessary" is a term of art. Therefore, instead of using that phrase and defining it, I used your definition language in its place.

Regarding the suggested language for s. 632.37 (2), I assumed that the damage repair estimate that an adjuster may not alter was one that was prepared by someone else. Let me know if that is not what you intended.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.wisconsin.gov



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1902/2

PJK&CTS:kjf:pg

Friday  
a.m.

stays  
↓

stays

2007 BILL

requiring adjusters to inspect  
motor vehicle damage, and  
insurance payments for motor  
vehicle repair costs

- 1 AN ACT *to renumber and amend* 632.37; *to amend* 632.37 (title); and *to create*  
2 134.82, 632.37 (1) (b), (c), (d), (e) and (f) and 632.37 (2) and (3) of the statutes;  
3 **relating to:** prohibiting an insurer from requiring a certain vendor for  
4 repairing a motor vehicle.

***Analysis by the Legislative Reference Bureau***

Current law prohibits an insurer that issues a motor vehicle insurance policy that covers the repair or replacement of motor vehicle glass from conditioning the coverage on whether the insured or a third party making a claim under the policy obtains services or parts from a particular vendor specified by the insurer. This bill expands that prohibition.

Under the bill, an insurer that issues a motor vehicle insurance policy that covers the repair of a motor vehicle may not condition that coverage on whether the insured or a third party making a claim under the policy obtains a damage repair estimate or services or parts from a particular garage, repair shop, or other vendor specified by the insurer. In addition, if an insured or third party makes a claim for the repair of a motor vehicle, the insurer must inform the insured or third party that they may select any garage, repair shop, or other vendor for a damage repair estimate or the repair and that the insurer will cover the reasonable costs of the repair regardless of which garage, repair shop, or other vendor they select. The insurer also must inquire whether the insured or third party has selected a garage, repair shop, or other vendor for a damage repair estimate or the repair and may make a referral to a garage, repair shop, or other vendor if the insured or third party indicates that

**BILL**

he or she has not selected a repair shop or requests a referral. The bill requires that every motor vehicle proof of insurance card issued after the effective date of the bill contain a notice that insurance companies are prohibited from requiring that repairs be made by a particular repair facility. The bill provides that an insurer that pays for the repair of a motor vehicle must pay for the repair at the same rate that the general public pays in that geographic area, unless the insurer and repair facility have an agreement otherwise, and that the insurer may not limit or discount the amount paid on the basis that the repair would have cost less if it had been made at a repair facility specified by the insurer. The bill also prohibits an insurance adjuster from preparing a vehicle damage estimate or from altering one prepared by another party without first physically inspecting the damage to the vehicle.

Also under the bill, an auto body repair facility or automobile insurance claim facility must post in a conspicuous location a notice that insurance companies are prohibited from requiring that repairs be made by a particular repair facility. In addition, an auto body repair facility or an automobile insurance claim facility must include that same notice at the top of every motor vehicle repair estimate that it prepares.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 134.82 of the statutes is created to read:

**134.82 Notice of right to choose repairer.** (1) An auto body repair facility or automobile insurance claim facility shall post in a conspicuous location a sign that states, in boldface letters not less than 2 inches high: "Wisconsin law prohibits an insurance company from requiring that motor vehicle repairs be made by a particular repair facility; the consumer has the right to choose the repair facility."

(2) Every motor vehicle damage repair estimate prepared by an auto body repair facility or automobile insurance claim facility shall include at the top of the estimate, printed in not less than 10-point boldface type, the following notice: "Wisconsin law prohibits an insurance company from requiring that motor vehicle repairs be made by a particular repair facility; the consumer has the right to choose the repair facility."

**SECTION 2.** 632.37 (title) of the statutes is amended to read:

**BILL**

1           **632.37 (title) Motor vehicle glass repair practices; ~~restriction on~~**  
2           **~~specifying vendor.~~**

3           **SECTION 3.** 632.37 of the statutes is renumbered 632.37 (1) (a) and amended  
4           to read:

5           632.37 (1) RESTRICTIONS ON SPECIFYING REPAIR FACILITY. (a) An insurer that  
6           issues a motor vehicle insurance policy covering the repair of a motor vehicle,  
7           including the repair or replacement of motor vehicle glass or other parts, may not  
8           require, as a condition of that coverage, that an insured, or a 3rd party, making a  
9           claim under the policy for the repair ~~or replacement of the~~ motor vehicle glass obtain  
10          a damage repair estimate or services or parts from a particular garage, repair shop,  
11          or other vendor, or in a particular location, specified by the insurer.

12          **SECTION 4.** 632.37 (1) (b), (c), (d), (e) and (f) of the statutes are created to read:

13          632.37 (1) (b) If an insured or a 3rd party makes a claim specified in par. (a)  
14          that is covered under a policy specified in par. (a), the insurer shall, at the time the  
15          claim is submitted, do all of the following in the following order:

16               1. Orally inform the insured or 3rd party that he or she may select any garage,  
17               repair shop, or other vendor to prepare a damage repair estimate or to repair the  
18               motor vehicle.

19               2. Orally inform the insured or 3rd party that the insurer will pay the  
20               reasonable costs of the repair regardless of which garage, repair shop, or other  
21               vendor the insured or 3rd party selects to make the repair.

22               3. Orally inquire whether the insured or 3rd party has selected a garage, repair  
23               shop, or other vendor to prepare a damage repair estimate or to repair the motor  
24               vehicle.

**BILL**

1 (c) Except as provided in par. (d), if the insured or 3rd party indicates that he  
2 or she has selected a garage, repair shop, or other vendor to prepare a damage repair  
3 estimate or to repair the motor vehicle, the insurer may not attempt, or shall cease  
4 attempts, to influence the insured's or 3rd party's choice of garage, repair shop, or  
5 other vendor.

6 (d) An insurer may refer an insured or 3rd party making a claim under par. (b)  
7 to a particular garage, repair shop, or other vendor, or to a particular location, if, after  
8 the insurer satisfies the requirements under par. (b), any of the following occurs:

9 1. The insured or 3rd party indicates that he or she has not selected a garage,  
10 repair shop, or other vendor for the estimate or the repair.

11 2. The insured or 3rd party requests a referral from the insurer.

12 (e) An insurer that makes a referral under par. (d) may not engage in any  
13 actions intended to influence the insured's or 3rd party's decision, such as by  
14 agreeing to reduce the amount of the premium or deductible or offering additional  
15 warranties if the insured or 3rd party selects a particular garage, repair shop, or  
16 other vendor, or by suggesting that if repairs are <sup>not</sup> made at a particular garage, repair  
17 shop, or other vendor the repairs will cost more, be delayed, or not be guaranteed.

18 (f) An insurer that issues a policy specified in par. (a) shall include on every  
19 motor vehicle proof of insurance card issued on or after the effective date of this  
20 paragraph .... [revisor inserts date], substantially the following information on its  
21 face: "Wisconsin law prohibits an insurance company from requiring that motor  
22 vehicle repairs be made by a particular repair facility; the consumer has the right to  
23 choose the repair facility."

24 **SECTION 5.** 632.37 (2) and (3) of the statutes are created to read:



# BILL

632.37 (2) REQUIREMENT TO MAKE PHYSICAL INSPECTION. An adjuster, as defined in s. 601.02 (1), may not prepare a motor vehicle damage repair estimate, or alter an estimate that was prepared by another party, without first making a physical inspection of the damage to the vehicle.

(3) PAYMENT OF REPAIR COSTS. Except as otherwise agreed between the insurer and the garage, repair shop, or other vendor making the repair, an insurer that pays for the repair of a motor vehicle shall pay for the repair at the same rate the general public pays in the geographic area in which the repair is made for the same or a similar type of repair to the same or a similar type of motor vehicle. The insurer may not limit or discount the amount that the insurer pays for the repair on the basis that the repair would have cost less if it had been made at a particular garage, repair shop, or other vendor, or in a particular location, specified by the insurer.

## SECTION 6. Initial applicability.

(1) If a motor vehicle insurance policy that is in effect on the effective date of this subsection contains a provision that is inconsistent with this act, this act first applies to that motor vehicle insurance policy on the date on which it is renewed.

(END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1902/2dn  
PJK:kjf:pg

April 12, 2007

Regarding the suggested language for s. 632.37 (1) (e), I'm not sure what is being referred to by "offering additional warranties." Do insurers offer warranties? What do insurers warrant?

Also regarding that suggested language, it seems to me that making a referral itself is influencing the consumer's decision. If the insurer makes a referral to only one vendor, wouldn't that be influencing a consumer's decision? Did you intend that the insurer should simply provide information about the garages, repair shops, and other vendors that are available and not actually make a referral?

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Regarding the suggested language for s. 632.37 (2), I assumed that the damage repair estimate that an adjuster may not alter was one that was prepared by someone else. Let me know if that is not what you intended.

Pamela J. Kahler  
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State of Wisconsin  
LEGISLATIVE REFERENCE BUREAU

**RESEARCH APPENDIX -**  
**PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 04/17/2007 (Per: PJK)

Appendix A

The 2007 drafting file for LRB-1902  
has been copied/added to the drafting file for  
**2007 LRB 07-2467**

1P The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2P This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.

**Duerst, Christina**

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**From:** Hein, Tanya  
**Sent:** Monday, May 07, 2007 4:56 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-1902/2 Topic: Insurance coverage of auto body repairs

Please Jacket LRB 07-1902/2 for the ASSEMBLY.